

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of Dylan Nathan Hunter, Minor.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

V

DONNA J. NATOLI,

Respondent-Appellant,

and

DWAYNE HUNTER,

Respondent.

UNPUBLISHED
September 7, 2004

No. 254216
Charlevoix Circuit Court
Family Division
LC No. 02-005558-NA

Before: Donofrio, P.J. and White and Talbot, JJ.

MEMORANDUM.

Respondent Donna J. Natoli appeals by delayed leave granted the order terminating her parental rights. Because the trial court did not clearly err in finding clear and convincing evidence for termination of parental rights, and termination was not clearly contrary to the child's best interests, we affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

On appeal, defendant asserts that there was insufficient evidence to establish the statutory basis for termination. Under MCL 712A.19b(3), the petitioner for the termination of parental rights bears the burden of proving at least one ground for termination. *In re Trejo Minors*, 462 Mich 341; 617 NW2d 407 (2000). Once the petitioner has presented clear and convincing evidence that persuades the court that a ground for termination is established, termination of parental rights is mandatory unless the court finds that termination is clearly not in the child's best interests. *Id.*, 355-356. Decisions terminating parental rights are reviewed for clear error. *Id.*, 356.

The petition alleged that respondent failed to rectify the conditions leading to the petition and failed to provide proper care and custody. MCL 712A.19b(3)(c)(i) and (g). There is clear

and convincing evidence to support the termination of respondent's parental rights. The proceedings began when respondent was unable to care for the child due to her substance abuse. Respondent showed signs of continuing substance abuse problems during the proceedings. She failed to comply with the testing requirements, and experienced several known relapses. She did not participate in NA or AA programs, and she only began individual therapy the month before the hearing. When she was given the opportunity to spend a two-week vacation with the child, the trip was aborted after one night, when respondent began drinking. There was little evidence that respondent was able to remedy the conditions that led to the adjudication, and the trial court did not err in finding that the statutory grounds were established.

There was no evidence that termination of respondent's parental rights was not in the best interests of the child. Although respondent expressed her attachment to her son, the evidence showed that his life became stable and his behavior improved once he was removed from her custody. All the evidence indicated that he was doing well in foster care. There is no showing that termination was clearly not in his best interest.

Respondent's due process argument is merely a reiteration of her claim that the evidence was not sufficient to establish grounds for termination. Having concluded otherwise, there is no basis for respondent's claim.

Affirmed.

/s/ Pat M. Donofrio
/s/ Helene N. White
/s/ Michael J. Talbot